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6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 CHRISTOPHER JANUARY,

11 Plaintiff,

12 vs.

13 BANK OF AMERICA, N.A.,
14 TD SERVICE COMPANY,

15 Defendants

) Case No.: SACV11-1133-AG (RNBx)

)

)

) (PROPOSED) ORDER ON DEFENDANT

) T.D. SERVICE COMPANY'S MOTION TO

) DISMISS COMPLAINT PURSUANT TO

) FRCP RULE 12(b)(6)

)

) DATE: October 17, 2011

) TIME: 10:00 a.m.

) COURTROOM: 10D

)

)

19 The court having considered all submissions concerning the motion by defendant T.D.
20 Service Company to dismiss plaintiff's complaint pursuant to FRCP Rule 12(b)(6), and good
21 cause appearing therefor, it is hereby ordered:

22 1. Plaintiff's first cause of action for violation of the Fair Debt Collection Practices
23 Act is hereby dismissed as not stating a proper claim against T.D. Service Company since
24 foreclosure is not debt collection pursuant to that Act.

25 2. Plaintiff's second cause of action for violation of the Fair Debt Collection Practices
26 Act is hereby dismissed as not stating a proper claim against T.D. Service Company since
27 foreclosure is not debt collection pursuant to that Act.
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2 3. Plaintiff's third cause of action for fraud is dismissed because plaintiff has not
3 pleaded fraud against T.D. Service Company with specificity and there are no allegations of
4 fraudulent misrepresentations by T.D. Service Company having been detrimentally relied upon
5 by plaintiff.

6 4. Plaintiff's fourth cause of action for extreme emotional distress is dismissed since
7 such a cause of action may not be founded in economic harm and since the processing of a
8 foreclosure is not extreme and outrageous conduct and is privileged.

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10 DATED: _____
11 _____
12 Judge of the United States District Court
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16 1040-2621
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PROOF OF SERVICE (By Mail)
(CCP Section 1013a(3))

I am over the age of 18, and I am not a party to the within action. I am employed by THE DREYFUSS FIRM, PLC, in the County of Orange, at 7700 Irvine Center Drive, Suite 710, Irvine, CA 92618.

On August 16, 2011, I served the attached: **(Proposed) Order on Defendant T.D. Service Company's Motion to Dismiss Complaint** on the interested parties in this action by placing true copies thereof in sealed envelopes, addressed as follows:


Christopher January
1417 South Ridgeley Drive
Los Angeles, CA 90019

☒ **(By Mail)** I placed said envelopes for collection and mailing, following ordinary business practices, at the business offices of THE DREYFUSS FIRM, PLC at the address set forth above, for deposit in the United States Postal Service. I am readily familiar with the practice of THE DREYFUSS FIRM, PLC for collection and processing of correspondence for mailing with the United States Postal Service, and said envelopes will be deposited with the United States Postal Service on said date in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **(By Facsimile Transmission)** I served the above-described document on the interested parties in this action by sending a true copy thereof by facsimile transmission pursuant to California rules of Court, Rule 2009(i)2, from facsimile machine number (949) 450-0668. The facsimile machine I used complied with California Rules of Court, Rule 2003(3), and no error was reported by the machine. Pursuant to Rule 2009(i)4, I caused the machine to print a transmission record of the transmission

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed on August 16, 2011, at Irvine, California.


Roma Klein